

78B-6-1112 Security requirement -- Amount not a limitation -- Jurisdiction over surety.

- (1) The court shall condition issuance of the order of abatement by eviction on the giving of security by the applicant, in such sum and form as the court determines proper, unless it appears that none of the parties will incur or suffer costs, attorney fees, or damage as the result of any wrongful order of abatement by eviction, or unless there exists some other substantial reason for dispensing with the requirement of security. No such security shall be required of the United States, the State of Utah, or of an officer, agency, or subdivision of either; nor shall it be required when it is prohibited by law.
- (2) The amount of security shall not establish or limit the amount of costs, including reasonable attorney fees incurred in connection with the order of abatement by eviction, or damages that may be awarded to a party who is found to have been wrongfully evicted.
- (3) A surety upon a bond or undertaking under this section submits to the jurisdiction of the court and irrevocably appoints the clerk of the court as agent upon whom any papers affecting the surety's liability on the bond or undertaking may be served. The surety's liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court who shall immediately mail copies to the persons giving the security if their addresses are known.
- (4) The plaintiff, upon demand, shall be granted a hearing to be held prior to the expiration of three days from the date the defendant is served with notice of the plaintiff's giving of security as provided in Subsection 78B-6-1112(1).

Renumbered and Amended by Chapter 3, 2008 General Session